



6325-39-P

Office of Personnel Management

5 CFR Part 532

RIN 3206-AM78

Prevailing Rate Systems; North American Industry Classification System Based

Federal Wage System Wage Surveys

AGENCY: U. S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management is issuing a final rule to update the 2007 North American Industry Classification System (NAICS) codes currently used in Federal Wage System wage survey industry regulations with the 2012 NAICS revisions published by the Office of Management and Budget.

DATES: *Effective date:* This rule is effective [insert date 30 days after date of publication in the Federal Register]. *Applicability date:* This rule applies for local wage surveys beginning on or after February 21, 2014.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, by telephone at (202) 606-2838 or by email at pay-leave-policy@opm.gov.

SUPPLEMENTARY INFORMATION: On March 26, 2013, the U.S. Office of Personnel Management (OPM) issued a proposed rule (78 FR 18252) to update the 2007 North American Industry Classification System (NAICS) codes used in Federal Wage System (FWS) wage survey industry regulations with the 2012 NAICS revisions published by the Office of Management and Budget (OMB). The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning

the pay of FWS employees, recommended by consensus that we adopt these changes. The 30-day comment period ended on April 25, 2013. OPM received two comments from a labor organization.

The first comment received from the labor organization was in reference to section 532.285 of title 5, Code of Federal Regulations—Special wage schedules for supervisors of negotiated rate Bureau of Reclamation employees. The labor organization asked if the special schedule rates for supervisors of negotiated rate Bureau of Reclamation (BOR) employees at the Yuma Projects Area were based on the negotiated rates of union represented workers. The answer is no, rates for supervisors of negotiated rate BOR employees are not based on the negotiated rates of union represented workers. Section 532.285 provides that the special wage rates for supervisors of negotiated rate BOR employees be based on annual special wage surveys conducted by BOR in each special wage area. Survey jobs representing BOR positions at up to four levels will be matched to private industry jobs in each special wage area. Special schedule rates for each position will be based on prevailing rates for that particular job in private industry.

The labor organization's second comment was in reference to NAICS code 332994 (Small arms, ordnance, and ordnance accessories manufacturing), which OPM proposed be added to the list of required NAICS codes in the Artillery and combat vehicle specialized industry in 5 CFR 532.313. The labor organization asked if the addition of NAICS code 332994 would also encompass cannon tube production from Federal arsenals. The Department of Defense, the lead agency responsible for conducting FWS surveys and issuing wage schedules, surveys cannon manufacturers. Previously, OMB listed cannon manufacturing under NAICS code 332995, but with the 2012 update, it is now listed under NAICS code 332994. We note, however, that the law requires that FWS wage surveys include only private sector employers. If

a private sector employer identified under NAICS code 332994 exists in a wage area, it may be included in an FWS wage survey. DOD does not survey any Federal agencies in order to set pay for FWS employees.

We have not made any changes to the final regulations based on these two comments. This final regulation is effective 30 days after publication. However, to provide DOD with sufficient time and a fixed date for planning surveys and implementing changes required by OMB's 2012 NAICS revisions, the regulation is applicable for wage surveys ordered to begin on or after February 21, 2014. As OMB continues to update NAICS codes periodically, we will update these regulations to correspond to the updated NAICS codes based on advice we receive from FPRAC.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

Executive Order 13563 and Executive Order 12866

This proposed rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 13563 and Executive Order 12866.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Elaine Kaplan,
Acting Director.

Accordingly, the U.S. Office of Personnel Management amends 5 CFR part 532 as follows:

PART 532--PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

§ 532.213 [Amended]

2. In § 532.213, amend the table headings in both columns by replacing the year “2007” with “2012.”

§ 532.221 [Amended]

3. In § 532.221, amend the table as follows:
 - a. Revise the year “2007” to “2012” in the table headings in both columns;
 - b. Remove NAICS codes “44311,” “7221,” and “7222” in the first column and “Appliance, television, and other electronic stores,” “Full-service restaurants,” and “Limited-service eating places” in the second column; and
 - c. Add NAICS codes “443” and “7225” in the first column in numerical order and “Electronics and appliance stores” and “Restaurants and other eating places” in the second column.

§ 532.267 [Amended]

4. In § 532.267(c)(1), amend the table as follows:
 - a. Revise the year “2007” to “2012” in the table headings in both columns;

b. Add NAICS code “333316” in the first column in numerical order and “Photographic and photocopying equipment manufacturing” in the second column;

c. Revise the title of NAICS code 334613 from “Magnetic and optical recording media manufacturing” to “Blank magnetic and optical recording media manufacturing” in the second column; and

d. Revise the title of NAICS code 4921 from “Couriers” to “Couriers and express delivery services” in the second column.

§ 532.285 [Amended]

5. In § 532.285(c)(1), amend the table headings in both columns by replacing the year “2007” with “2012.”

§ 532.313 [Amended]

6. In § 532.313(a), amend the table as follows:

a. Revise the year “2007” to “2012” in the table headings in both columns;

b. Add NAICS code “333316” in the first column in numerical order and “Photographic and photocopying equipment manufacturing” in the second column to the list of required NAICS codes for the Electronics Specialized Industry, Guided Missiles Specialized Industry, and Sighting and Fire Control Equipment Specialized Industry;

c. Remove NAICS codes “332212,” “332995,” “336312,” “336322,” and “336399” in the first column and “Hand and edge tool manufacturing,” “Other ordnance and accessories manufacturing,” “Gasoline engine and engine parts manufacturing,” “Other motor vehicle electrical and electronic equipment manufacturing,” and “All other motor vehicle parts manufacturing” in the second column from the list of required NAICS codes for the Artillery and Combat Vehicle Specialized Industry; and

d. Add NAICS codes “332216,” “332994,” “33631,” “33632,” and “33639” in the first column in numerical order and “Saw blade and hand tool manufacturing,” “Small arms, ordnance, and ordnance accessories manufacturing,” “Motor vehicle gasoline engine and engine parts manufacturing,” “Motor vehicle electrical and electronic equipment manufacturing,” and “Other motor vehicle parts manufacturing” in the second column to the list of required NAICS codes for the for the Artillery and Combat Vehicle Specialized Industry.

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